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### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

## UNITED PARCEL SERVICE NOV 2 6 2019 EMAIL VERIFICATION REQUESTED

Mr. Mark K. Cox Senior Vice President, Chief Manufacturing, Supply Chain and Engineering Officer Eastman Chemical Company 200 S Wilcox Dr Bldg 280 Kingsport, Tennessee 37660-5147

Dear Mr. Cox:

Pursuant to Section 114(a)(1) of the Clean Air Act (the Act), 42 U.S.C. § 7414(a)(1), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to the explosion which occurred on October 4, 2017, at the Eastman Chemical facility located in Kingsport, Tennessee. This information is needed to determine whether Eastman Chemical is in compliance with requirements of the Act and its implementing regulations. Section 114(a) of the Act, 42 U.S.C. § 7414(a), authorizes the Administrator of the EPA to require any person who owns or operates an emission source, whom the Administrator believes may have information necessary for the purposes set forth in Section 114(a), or who is subject to any requirement of the Act, to provide such information as the Administrator may reasonably require for the purpose of carrying out any provision of the Act. This authority has been duly delegated to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review and follow the instructions in and, where required, complete the following enclosures: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Questions (Enclosure 4), and Statement of Certification (Enclosure 5).

The requested information shall be submitted to the EPA per Enclosure 1. The responses shall be submitted **no later than thirty (30) calendar** days after the Eastman Chemical's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted to the following individual:

Ms. Phyllis Warrilow, PE ECAD/AEB U.S. EPA Region 4 Atlanta Federal Center 61 Forsyth Street, S.W. Atlanta, Georgia 30303

Failure to provide the information required may result in an order requiring compliance with the requirements contained herein, or the initiation of a civil action pursuant to Section 113 of the Act, 42

U.S.C. § 7413. This may include civil and administrative penalties of up to \$97,229 per day of noncompliance, pursuant to Sections 113(b) and (d) of the Act, 42 U.S.C § 7413(b) and (d).

Under 40 C.F.R. Part 2, Subpart B, you may assert a business confidentiality claim covering part of all of the information you submit, other than emissions data and information or data that is otherwise publicly available, as described in 40 CFR 2.203(b). The page, paragraph, and sentence must be identified for any information subject to a claim of business confidentiality. If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. Enclosure 3 specifies the assertion and substantiation requirements for business confidentiality claims. Please note that if the EPA receives a Freedom of Information Act request for information you claim to be business confidential, or wants to determine whether such information is entitled confidential treatment, you will be required to bear the burden of substantiating your confidentiality claim. See 40 C.F.R. § 2.204(a) and (d). In those instances, you will be given an opportunity to submit comments on your claim by responding to 11 questions on Enclosure 3. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. Failure to submit your comments by the deadline in the letter will be regarded as a waiver of your confidentiality claim, and the EPA may release the information.

The response to the information requested must be accompanied by the enclosed Statement of Certification, which is to be signed and dated by a responsible official of Eastman Chemical. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you. Please see Enclosure 5 for a Statement of Certification template for Eastman Chemical's use.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

Should you have any questions regarding this letter, please feel free to contact Phyllis Warrilow at (404) 562-9198 or by email at Warrilow.Phyllis@epa.gov.

Thank you for your cooperation in this matter.

Sincerely, Carol L. Kemker

Carol L. Kemker

Director

Enforcement and Compliance Assurance Division

Enclosures

cc: Michelle Walker, TDAPC, Director

#### Instructions

The following instructions apply to each and every question contained in Enclosure 4.

- 1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
- 2. If your response to a particular question requires a scanned or hardcopy document, you must identify the filename or document title. Make sure to correlate any hardcopy or scanned documents to a specific question. If a document is responsive to more than one question, this must be so indicated and only one copy of the document needs to be provided.
- 3. The company may choose to either submit documents in .pdf format or submit documents as hard copy documents. However, electronic submissions are preferred. Should the company choose to provide .pdf electronic documents, do not create separate .pdf files for each page of a single document.
- 4. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
- 5. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
- 6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
- Provide a separate response to each and every question, and each and every subpart of a question.

### **Definitions**

- 1. The terms "document" and "writing" and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company's possession, custody or control or to which the company has or has had access. The terms "document" and "writing" shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports, plans, protocols, reports, analyses; or any handwritten, recorded, transcribed punched, taped, filmed or graphic matter, however produced or reproduced.
- 2. The term "Incident" shall mean the explosion event which occurred at the Eastman Chemical facility located in Kingsport, Tennessee on or about October 4, 2017.
- 3. The terms "relate to" or "pertain to" (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

### Confidential Business Information (CBI) Assertion and Substantiation Requirements

### A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Clean Air Act (the Act) and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your comments on the draft inspection report as a waiver of that claim, and the information may be made available to the public without further notice to you.

### B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may

be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

- For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
- 2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
- 3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
- 4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
- 5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
- 6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
- 7. For each item or category of information claimed as confidential, <u>explain with specificity</u> why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
- 8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
- Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
- 10. If you believe any information to be  $(\underline{a})$  trade secret  $(\underline{s})$ , please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be  $(\underline{a})$  trade secret  $(\underline{s})$ .
- 11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

### **Information Request Questions**

Provide the following information using the instructions and definitions provided in Enclosures 1 and 2. A response must be sent to the EPA no later than thirty (30) calendar days after Eastman Chemical receives this request.

- 1) Provide verification that the equipment involved in the incident was or was not subject to CAA 112(r)(7) Risk Management Plan.
- 2) Please provide all documents pertaining to the incident involving the explosion incident occuring on or about October 4, 2017. These items should include, but not be limited to, investigative reports, memos, email, communications, notifications, evacuation notices, press releases, insurance determinations, forensic reports by you or any entity including government agencies, insurance agencies, fire departments, police, remedial cleanup groups, and consultants.
- 3) Please provide a process description of all processes associated with the equipment involved in the incident.
- 4) Provide all hazard analysis pertaining to all equipment involved in the incident, including but not limited to pressure safety devices, valves, fittings, instrumentation, electrical equipment, and all other equipment involved in the incident. The hazard analyses should include, but not be limited to, process hazard analysis, safety checklists, safety reviews, failure mode analysis, root cause analysis, hazard and operability studies, fault tree analysis, event tree analysis, and all other hazard analysis that was performed in the last 10 years and after the date of the incident.
- 5) List and provide for all chemicals involved in the incident: chemical name, common industry name, Chemical Abstract Service (CAS) numbers, Material Safety Data Sheets, Safety Data Sheets, product safety bulletins and industry guidelines. List all quantities of the chemicals involved in the incident. Describe and explain how and why the chemicals were released or ignited during the incident.
- 6) Provide a plot plan of the facility, indicating the location of the explosion and locations of tanks and storage areas. Indicate the contents of the tanks and of the storage areas.
- 7) Provide a list of all valves and pressure safety devices installed on or related to the all equipment involved in the incident and provide the date that each device was installed. Provide all specifications including, but not limited to, make, model, and manufacturer including sizing calculations. Provide all maintenance and test records from 2010 to present.
- 8) Provide a narrative and time line of the incident and describe what happened. Provide all operating procedures regarding operations of equipment involved in the incident. (Both before and after the incident).
- 9) List all damages to onsite facility property and to offsite property. List all costs incurred including, but not limited to, costs related to damages, cleanup, reimbursements, etc.
- 10) Explain what Eastman Chemical did to minimize the consequences of the incident.

- 11) Provide Eastman Chemical's emergency response plan.
- 12) Based on Chapter 7 of the American Institute of Chemical Engineers (AIChE), Center for Chemical Process Safety (CCPS) "Guidelines for Investigating Chemical Process Incidents," Please provide a written narrative explanation for the cause of the incident.
- 13) Explain and describe what safeguards, protections, and procedures the facility has implemented since the incident to prevent recurrence of similar incidents. Provide all corresponding receipts, contracts, and associated work orders for equipment and services utilized to prevent similar incidents.
- 14) Provide all operating procedures implemented since the incident that are used to safeguard against a recurrence of the incident.
- 15) Provide onsite meteorological data including, but not limited to, wind speed, wind direction, temperature, and relative humidity summarized on an hourly basis for the day of the day of the incident.

### STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to

Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)	
it.	
(Printed Name)	
(Title)	
(Date)	